

REMARKS/ARGUMENTS

Claims 2-4 and 6-10 are pending in the present application. Claims 1, 5, and 11-30 are canceled. Claims 2-4, 6-8, and 10 are amended. Claim 2 contains allowable subject matter and has been rewritten in independent form as suggested by the Examiner. Claims 3-4, 6-8, and 10 are amended to change their dependency to claim 2. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Reconsideration of the claims is respectfully requested.

I. Allowable Subject Matter

The Examiner has stated that claims 2, 12, and 22 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, claim 2 has been rewritten to overcome this objection. Claims 12 and 22 are canceled.

II. 35 U.S.C. § 101

The Examiner has rejected claims 21-30 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

The Office Action states:

With respect to claims 21-30, the "computer readable medium," in accordance with Applicant's specification, may be a signal bearing media, for example radio frequency and light wave transmissions. This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. Instead, it includes a form of energy. Energy does not fall within a statutory category since it is clearly not a series of steps or acts to constitute a process, not a mechanical device or combination of mechanical devices to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter.

Office Action dated February 8, 2008, page 3.

Claims 21-20 are canceled. Therefore, Applicants respectfully request withdrawal of the rejection of claims 21-30 under 35 U.S.C. § 101.

III. 35 U.S.C. § 103, Obviousness Based on Avakian and Oulu

The Examiner has rejected claims 1, 3-11, 13-20, 21, and 23-30 under 35 U.S.C. § 103(a) as being unpatentable over *Avakian et al.*, (United States Publication No.: 2005/0039171 A1), hereinafter referred to as *Avakian* in view of *Oulu et al.*, (United States Patent 6,79,460 B2), hereinafter referred to as *Oulu*. This rejection is respectfully traversed.

Claims 1, 5, and 11-30 are canceled. Claim 2 contains allowable subject matter and has been rewritten in independent form as suggested by the Examiner. Claims 3-4, 6-8, and 10 are amended to change their dependency to claim 2.

Therefore, Applicants respectfully submit that claim 2 is now in condition for allowance. In addition, dependent claims 3-4, 6-8, and 10 are allowable at least by virtue of their dependency on claim 2. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1, 3-11, 13-20, 21, and 23-30 under 35 U.S.C § 103(a).

IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Gerald H. Glanzman/

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